

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CITY OF ROSEVILLE EMPLOYEE'S
RETIREMENT SYSTEM,
Individually and on Behalf
of All Others Similarly
Situated,

Plaintiff,

vs.

STERLING FINANCIAL
CORPORATION, HAROLD B.
GILKEY, and DANIEL G. BYRNE,

Defendants.

NO. CV-09-0368-EFS

ORDER GRANTING PLAINTIFF'S MOTION
FOR APPOINTMENT AS LEAD PLAINTIFF
AND FOR APPROVAL OF SELECTION OF
COUNSEL

Before the Court¹ is Plaintiff City of Roseville Employee's Retirement System's ("Retirement System") Motion for Appointment as Lead Plaintiff and for Approval of Selection of Counsel (Ct. Rec. [7](#)), which seeks 1) appointment of Retirement System as Lead Plaintiff, and 2) approval of Coughlin Stoia Geller Rudman & Robbins LLP ("Coughlin Stoia") as Lead Counsel and Lukins & Annis, PS as Liaison Counsel. Defendants Sterling Financial Corp. ("Sterling"), Harold Gilkey, and

' Plaintiff initially noted this motion for hearing with oral argument. However, after review, the Court finds oral argument unwarranted. LR 7.1(h)(3)b.iv. Plaintiff's request to strike the March 19, 2010 hearing is granted.

1 Daniel Byrne advised that they take no position as to Plaintiff's
2 requests, but reserved their right to challenge Lead Plaintiff's
3 adequacy and the typicality of the claims when the Court considers class
4 certification. After reviewing the submitted materials and relevant
5 authority, the Court is fully informed and grants Plaintiff's motion for
6 the reasons given below.

7 Plaintiff's class action complaint alleges violations of the
8 Securities Exchange Act of 1934 (the "Exchange Act"), as amended by the
9 Private Securities Litigation Reform Act of 1995 (PSLRA), 15 U.S.C. §
10 78u-4, and the Securities and Exchange Commission Rule 10b-5, 17 C.F.R.
11 § 240.10b-5. In pertinent part, Plaintiff alleges that Defendants
12 engaged in improper behavior and issued materially false and misleading
13 statements regarding Sterling's business and financial dealings, thereby
14 harming the proposed class: those who purchased Sterling publicly-
15 traded securities.

16 The PLRSA establishes procedures for bringing an Exchange Act class
17 action, including setting forth publishing and filing deadlines. 15
18 U.S.C. § 78u-4(a). The PLRSA also requires the Court to "appoint as
19 lead plaintiff the member or members of the purported plaintiff class
20 that the court determines to be most capable of adequately representing
21 the interests of class members," i.e., the "most adequate plaintiff."
22 *Id.* § 78u-4(a)(2)(B)(i). In making this determination, the PLRSA
23 creates a "most adequate plaintiff" presumption if the three
24 requirements of 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I) are satisfied. The
25 Court finds these requirements are met and that no evidence has been
26 offered to rebut the presumption that Retirement System is the most
27

1 adequate plaintiff to serve as lead plaintiff.

2 First, Plaintiff filed this class action, timely published notice
 3 of the class action in an appropriate medium, and timely filed the
 4 instant motion. *Id.* § 78u-4(a)(3)(B)(iii)(I)(aa). Second, based on the
 5 Complaint's allegations and Karl Barth's declaration (Ct. Rec. 9),
 6 Retirement System has the largest financial interest in the relief
 7 sought by the class. *Id.* § 78u-4(a)(3)(B)(iii)(I)(bb). Finally, at
 8 this stage, the Court finds Retirement System meets the applicable
 9 Federal Rule of Civil Procedure 23 requirements: typicality and
 10 adequacy.² *Id.* § 78u-4(a)(3)(B)(iii)(I)(cc); see *In re Cree, Inc. Sec.*
 11 *Litig.*, 219 F.R.D. 369, 372 (M.D.N.C. 2003). Retirement System's claim
 12 that it suffered damages as a result of purchasing Sterling securities
 13 at artificially inflated prices is typical of the other class members
 14 and there is not an apparent potential conflict between Retirement
 15 System and the class. In addition, no other party has requested to be
 16 appointed lead plaintiff. In summary, the Court finds Retirement System
 17 the most adequate plaintiff to serve as lead plaintiff.

18 In addition, the Court approves Retirement System's choice of lead
 19 and liaison counsel. Proposed lead counsel Coughlin Stoia is a large
 20 law firm experienced in litigating complex securities actions and is
 21 qualified and capable to pursue this action. 15 U.S.C. § 78u-
 22 4(a)(3)(B)(iii). As to proposed liaison counsel, the Court is familiar
 23 with Lukins & Annis and finds it qualified to oversee communications
 24 between the parties and the Court in this complex litigation.

25
 26 ² This preliminary finding does not impact the Defendants' ability
 27 to challenge class certification.

1 Accordingly, **IT IS ORDERED:**

2 1. Plaintiff's Motion for Appointment as Lead Plaintiff and for
3 Approval of Selection of Counsel (**Ct. Rec. 7**) is **GRANTED**.

4 2. Retirement System will serve as Lead Plaintiff.

5 3. The law firm of Coughlin Stoia Geller Rudman & Robbins LLP is
6 appointed Lead Counsel for the class.

7 4. The law firm of Lukins & Annis, PS is appointed Liaison
8 Counsel.

9 5. The March 19, 2010 hearing is **STRICKEN**.

10 **IT IS SO ORDERED.** The District Court Executive is directed to
11 enter this Order and counsel.

12 **DATED** this 8th day of March 2010.

13
14 S/ Edward F. Shea
15

EDWARD F. SHEA
16 UNITED STATES DISTRICT JUDGE
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